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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,361	11/30/2005	Ernest Appleton	1124-3	3914
<div>7590 08/11/2008</div> <div>Jack Schwartz &amp; Associates Suite 1510 1350 Broadway New York, NY 10018</div>				
EXAMINER				
OLSON, LARS A				
ART UNIT		PAPER NUMBER		
3617				
MAIL DATE		DELIVERY MODE		
08/11/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

## Application No.

10/535,361

## Applicant(s)

APPLETON, ERNEST

## Examiner

Lars A. Olson

## Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 14-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 9, 11 and 12 is/are rejected.
- 7) ☒ Claim(s) 7, 8, 10 and 14-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. An amendment was received from the applicant on June 9, 2008.
2. Claim 13 has been canceled.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6, 9, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Appleton et al. (US 6,431,079) in view of Simpson (US 6,953,086).

Appleton et al. discloses a conduit gripping apparatus, as shown in Figures 1-4, that is comprised of a body, defined as Part #10 or 11, and a plurality of surface engaging elements, defined as Part #15, that are in the form of resilient bristles, where said elements are adapted to execute reciprocating movement, as shown in Figures 2-4, not all of said elements execute said reciprocating movement in phase with each other, and said elements remain in contact with a surface of a conduit, defined as Part #16, during said reciprocating movement.

Appleton et al., as set forth above, discloses all of the features claimed except for the use of surface engaging elements that are adapted to execute reciprocating longitudinal sliding movement relative to a body of a conduit gripping apparatus.

Simpson discloses a conduit gripping apparatus, as shown in Figures 1-15, that includes a plurality of surface engaging elements, defined as Part #6, that are made from resilient elastomeric material and are adapted to execute reciprocating longitudinal sliding movement relative to a body of said apparatus, as shown in Figures 9-14, where not all of said elements execute said reciprocating movement in phase with each other, as shown in Figure 10, and said elements remain in contact with a surface of a conduit, as shown in Figures 9-11.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize a plurality of surface engaging elements to execute reciprocating longitudinal sliding movement relative to a body of a conduit gripping apparatus, as taught by Simpson, in combination with the conduit gripping apparatus as disclosed by Appleton et al. for the purpose of providing a conduit gripping apparatus with traction members that provide improved propulsion force for said apparatus through a conduit.

***Allowable Subject Matter***

5. Claims 7, 8, 10 and 14-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1-6, 9, 11 and 12 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 3617

8. Any inquiry concerning this communication from the examiner should be directed to Exr. Lars Olson whose telephone number is (571) 272-6685.

lo

August 8, 2008

/Lars A Olson/

Primary Examiner, Art Unit 3617